

of the equipment, or the date of export from the United States.

(4) License applications for items reviewed under 6(a) controls will also be reviewed to determine the applicability of 6(j) controls to the transaction. When it is determined that an export or reexport could make a significant contribution to the military potential of Sudan, including its military logistics capability, or could enhance Sudan's ability to support acts of international terrorism, the appropriate committees of the Congress will be notified 30 days before issuance of a license to export or reexport such items.

(c) *Contract sanctity.* Contract sanctity dates and related licensing information for Sudan are set forth in Supplement No. 2 to part 742. Applicants who wish a pre-existing contract to be considered must submit sufficient documentation to establish the existence of a contract.

(d) *U.S. controls.* Although the United States seeks cooperation from like-minded countries in maintaining anti-terrorism controls, at this time these controls are maintained only by the United States.

[61 FR 12786, Mar. 25, 1996, as amended at 63 FR 42228, Aug. 7, 1998; 64 FR 27142, May 18, 1999; 64 FR 47667, Sept. 1, 1999; 65 FR 14859, Mar. 20, 2000; 65 FR 34075, May 26, 2000; 66 FR 36682, July 12, 2001; 68 FR 16212, Apr. 3, 2003; 75 FR 14340, Mar. 25, 2010; 78 FR 13469, Feb. 28, 2013]

§ 742.11 Specially designed implements of torture, including thumbscrews, thumbcuffs, handcuffs, spiked batons, and parts and accessories, n.e.s.

(a) *License Requirements.* In support of U.S. foreign policy to promote the observance of human rights throughout the world, a license is required to export any commodity controlled by ECCN 0A983 to all destinations including Canada.

(b) *Licensing policy.* Applications for such licenses will generally be denied to all destinations.

(c) *Contract sanctity.* The contract sanctity date is November 9, 1995. Contract sanctity will be a factor in considering only applications for export to the NATO countries, Japan, Australia, and New Zealand.

(d) *U.S. controls.* In maintaining its controls on specially designed instruments of torture the United States considers international norms regarding human rights and the practices of other countries that control exports to promote the observance of human rights. However, these controls are not based on the decisions of any multinational export control regime and may differ from controls imposed by other countries.

[61 FR 12786, Mar. 25, 1996, as amended at 72 FR 9849, Mar. 6, 2007; 75 FR 41082, July 15, 2010]

§ 742.12 [Reserved]

§ 742.13 Communications intercepting devices; software and technology for communications intercepting devices.

(a) *License requirement.* (1) In support of U.S. foreign policy to prohibit the export of items that may be used for the surreptitious interception of wire, oral, or electronic communications, a license is required for all destinations, including Canada, for ECCNs having an "SL" under the "Reason for Control" paragraph. These items include any electronic, mechanical, or other device primarily useful for the surreptitious interception of wire, oral, or electronic communications (ECCNs 5A001.f.1 and 5A980); and for related "software" primarily useful for the surreptitious interception of wire, oral, or electronic communications (ECCN 5D001.c and 5D980.a); and "software" primarily useful for the "development", "production", or "use" of devices controlled under ECCNs 5A001.f.1 and 5A980 (ECCNs 5D001.a and 5D980.b); and for "technology" primarily useful for the "development", "production", or "use" of items controlled by ECCNs 5A001.f.1, 5D001.a (for 5A001.f.1), 5A980 and 5D980 (ECCNs 5E001.a and 5E980); and for "software" primarily useful to support such ECCN 5E001.a "development", "production", or "use" "technology" for 5A001.f.1 equipment and certain 5D001.a "software" (ECCN 5D001.b). These licensing requirements do not supersede the requirements contained in the Omnibus Crime Control and Safe Streets Act of 1968, as amended (18 U.S.C. 2512). This license requirement

is not reflected on the Commerce Country Chart (Supplement No. 1 to Part 738 of the EAR).

(2) “Communications intercepting devices” are electronic, mechanical, or other devices that can be used for interception of wire, oral, or electronic communications if their design renders them primarily useful for surreptitious listening even though they may also have innocent uses. A device is not restricted merely because it is small or may be adapted to wiretapping or eavesdropping. Some examples of devices to which these restrictions apply are: the martini olive transmitter; the infinity transmitter; the spike mike; and the disguised microphone appearing as a wristwatch, cufflink, or cigarette pack; etc. The restrictions do not apply to devices such as the parabolic microphone or other directional microphones ordinarily used by broadcasters at sports events, since these devices are not primarily useful for surreptitious listening.

(b) *Licensing policy.* (1) License applications, except for those applications for which a license is required for both SL and AT reasons, will generally be approved for exports or reexports requiring a license for SL reasons when the exporter or reexporter is:

(i) A provider of wire or electronic communication services or an officer, agent, or employee of, or person under contract with such a provider, in the normal course of the business of providing that wire or electronic communication service; or

(ii) An officer, agent, or employee of, or a person under contract with, the United States, one of the 50 States, or a political subdivision thereof, when engaged in the normal course of government activities.

NOTE TO PARAGRAPH (b)(1): For SL reasons, license applications will generally be denied to countries that are subject to controls for AT reasons.

NOTE TO PARAGRAPH (b)(1)(i): The normal course of the business of providing a wire or electronic communications service includes any activity which is a necessary incident to the rendition of the service or to the protection of the rights and property of the provider of that service.

(2) Other license applications will generally be denied for exports or reex-

ports requiring a license for SL reasons.

(c) *Contract sanctity.* Contract sanctity provisions are not available for license applications involving exports and reexports of communications interception devices.

(d) *U.S. controls.* Controls on items classified under ECCNs 5A980, 5D980, and 5E980 are maintained by the United States government for foreign policy purposes.

[61 FR 12786, Mar. 25, 1996, as amended at 71 FR 67036, Nov. 20, 2006; 77 FR 39368, July 2, 2012; 78 FR 37382, June 20, 2013]

§ 742.14 Significant items: hot section technology for the development, production or overhaul of commercial aircraft engines, components, and systems.

(a) *License requirement.* Licenses are required for all destinations, except Canada, for ECCNs having an “SI” under the “Reason for Control” paragraph. These items include hot section technology for the development, production or overhaul of commercial aircraft engines controlled under ECCN 9E003.a.1 through a.8, .h, .i and .j, and related controls.

(b) *Licensing policy.* Pursuant to section 6 of the Export Administration Act of 1979, as amended, foreign policy controls apply to technology required for the development, production or overhaul of commercial aircraft engines controlled by ECCN 9E003a.1 through a.8, .h, .i, and .j, and related controls. These controls supplement the national security controls that apply to these items. Applications for export and reexport to all destinations will be reviewed on a case-by-case basis to determine whether the export or reexport is consistent with U.S. national security and foreign policy interests. The following factors are among those that will be considered to determine what action will be taken on license applications:

- (1) The country of destination;
- (2) The ultimate end-user(s);
- (3) The technology involved;
- (4) The specific nature of the end-user(s); and
- (5) The types of assurance against unauthorized use or diversion that are given in a particular case.